



Domestic Violence Virtual Courtroom

Presented by:
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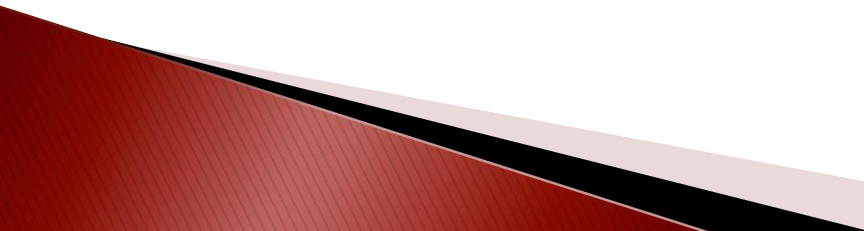
for

Indian Affairs Committee
Third Meeting
State of New Mexico Legislature

August 30, 2012

Domestic Violence Virtual Courtroom

An online self–self study training program

- Restraining Orders in Tribal Courts
 - Civil and Criminal Proceedings
 - Created for Tribal Court Judges
 - Case File and Flowchart (Roadmap)
 - Virtual Courtroom
- 

Domestic Violence Virtual Courtroom available at www.ailc-inc.org



DVVC Homepage: Curriculum Overview

[Home](#) [Case Files](#) [Civil Proceeding](#) [Criminal Proceeding](#) [Flow Chart](#) [Comity](#) [Resources](#) [Troubleshooting](#)



**Domestic Violence
Virtual Courtroom**



Introduction

Welcome to a virtual training on domestic violence in a tribal court. This online program is designed to have you preside over a civil hearing where a petitioner is seeking a restraining order and a criminal hearing where the restraining order has been violated.

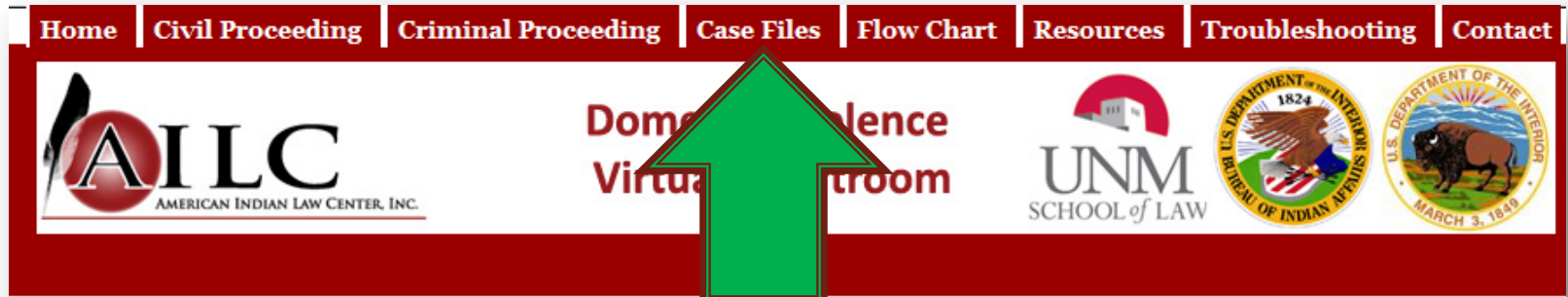
This virtual courtroom is designed to introduce tribal court judges and tribal court staff to the following:

- Facially valid protection orders against domestic violence under the Violence Against Women Act (VAWA)
- Identify resources for use when issuing protection orders against domestic violence and when protection orders against domestic violence are violated

This training program presents video scenarios and pertinent documents for a civil hearing on a restraining order and a criminal hearing on a violation of the protection order. For this virtual training, there are case files you will need to complete this training. They are located at the top of each web page of the training programs. The case files are labeled as follows:

- Case file - Civil

DVVC: Case File



Case Files

The case files used in this hypothetical are located at the top of each web page. To access the documents in the case files please click the appropriate box found at the top of each web page. Below are the case files and a list of the documents contained in each one.

Examples

Case File - Civil	Case File - Criminal	Sky Tribal Codes	Case File - Fact Pattern	Timeline
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Case File - Civil

- [Petition for a Temporary Restraining Order Against Domestic Violence](#)
- [Permanent Restraining Order](#)

Case file - Criminal


- [Criminal complaint for violation of a Permanent Restraining Order](#)
- [Permanent Restraining Order](#)

DVVC: Case File – Fact Pattern

Case file – Fact Pattern

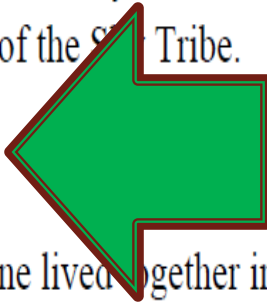
The fact pattern below is used in this online training. Immediately after the fact pattern, there is a timeline to assist in demonstrating the sequence of the events.

Background

This case involves a couple, John Brown Fox and Jane Red Feather, who have been in an on-again-off-again relationship for nine years. The couple is not married and they do not have children. Both are members of the  Tribe.

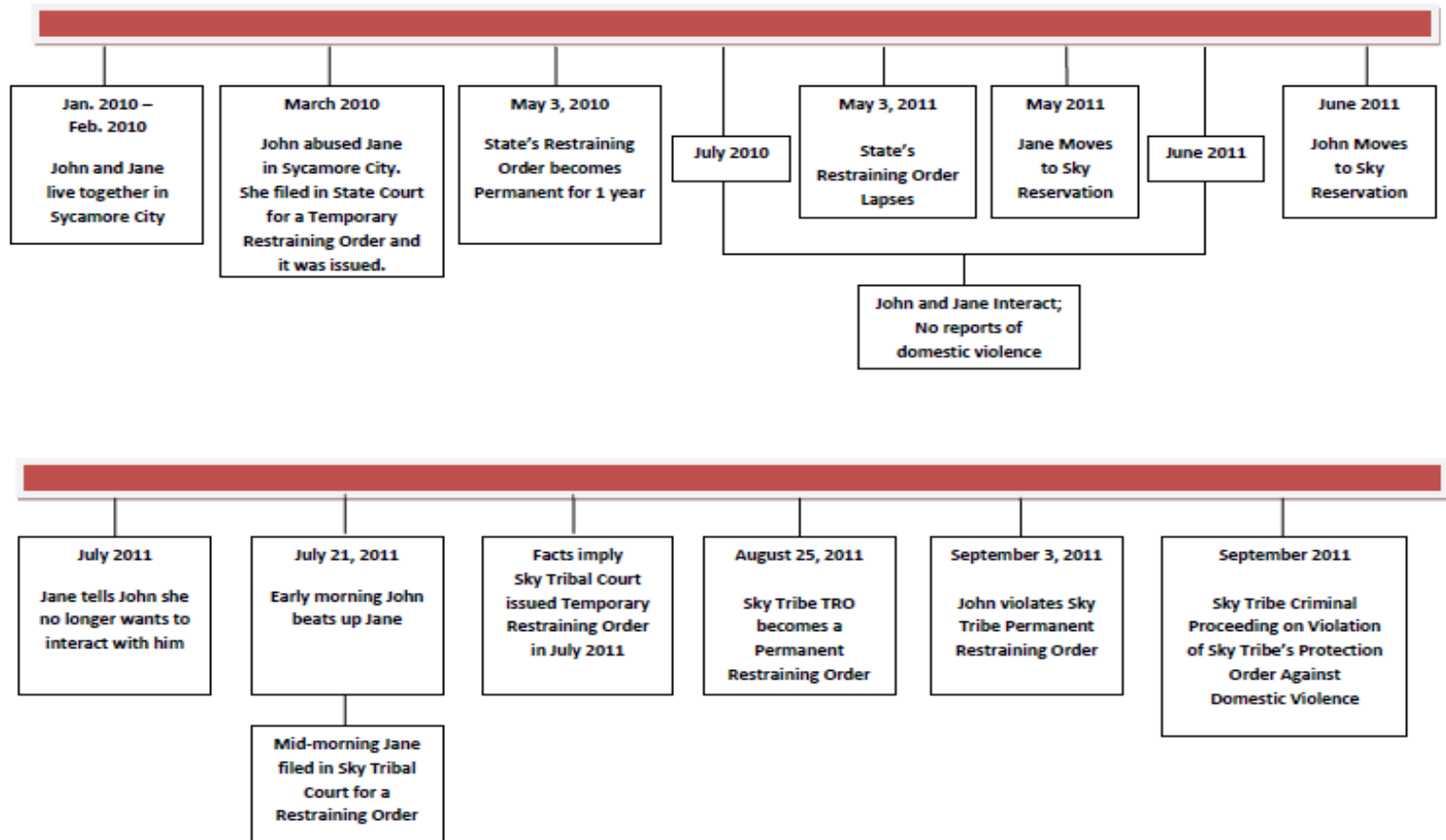
January 2010 – May 2010:

In January 2010, John and Jane lived together in Sycamore City which is near the Sky Reservation. In March 2010, John and Jane got into an argument. John came home drunk and



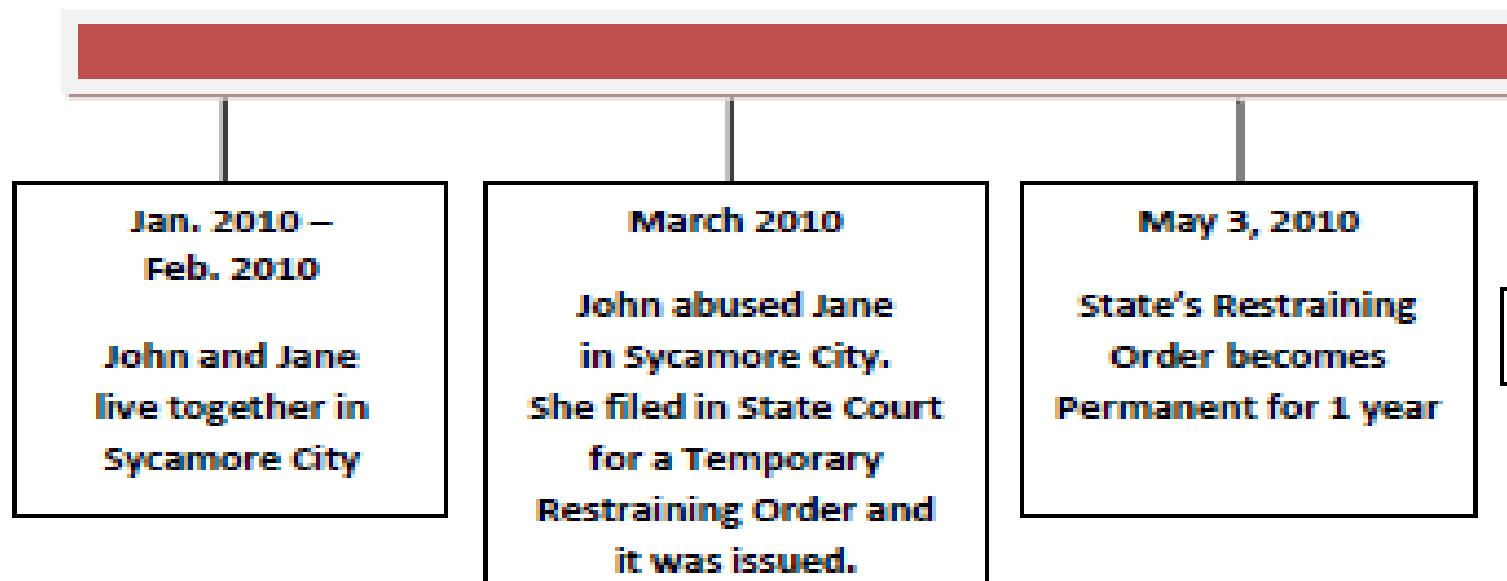
DVVC: Case File – Timeline

TIMELINE OF THE FACT PATTERN



DVVC: Case File – Timeline (up close)

TIMELINE OF T



DVVC: Civil Proceeding

DVVC: Civil Proceeding Welcome Screen

[Home](#) [Civil Proceeding](#) [Criminal Proceeding](#) [Case Files](#) [Flow Chart](#) [Resources](#) [Troubleshooting](#) [Contact](#)



**Domestic Violence
Virtual Courtroom**



Civil Proceeding

Temporary Restraining
Order

Permanent Restraining
Order

Welcome to the Civil Proceeding Online Training.

You need not complete the entire training in one sitting. You can stop at any point and your place will be saved for up to 72 hours. Using the same computer and browser, return to this page and you will be directed to the page where you left off.

[Start Training](#)



DVVC: Civil Proceeding – Question

[Home](#) [Civil Proceeding](#) [Criminal Proceeding](#) [Case Files](#) [Flow Chart](#) [Resources](#) [Troubleshooting](#) [Contact](#)



Domestic Violence
Virtual Courtroom



Civil Proceeding

CASE FILE -
CIVIL

CASE FILE -
CRIMINAL

SKY TRIBAL
CODES

CASE FILE -
FACT PATTERN

TIMELINE

Temporary Restraining Order

Petition for Temporary
Restraining Order [Document]
and Ex Parte Order [Question]

Issuance of Temporary
Restraining Order [Question]

Expiration of a Temporary
Restraining Order [Question]

Provisions of Temporary
Restraining Order [Question]

Permanent Restraining Order

TEMPORARY RESTRAINING ORDER FOR PROTECTION AGAINST VIOLENCE

Document:

[Petition for Temporary Restraining Order](#) [click for PDF]

[Previous](#) [Next](#)

Question:
Ex Parte Order

Please review the Petition filed by Jane Red Feather (Petitioner). John Brown Fox (Respondent) has not been served. Based upon the facts in the Petition, would you issue a temporary restraining order (TRO) ex parte?

Yes

No

DVVC: Civil Proceeding – Answer page with Bench Tools and Analysis Points

Civil Proceeding

Temporary Restraining Order

Petition for Temporary Restraining Order [Document] and Ex Parte Order [Question]

Issuance of Temporary Restraining Order [Question]

Expiration of a Temporary Restraining Order [Question]

Provisions of Temporary Restraining Order [Question]

Permanent Restraining Order

CASE FILE - CIVIL

CASE FILE - CRIMINAL

SKY TRIBAL CODES

CASE FILE - FACT PATTERN

TIMELINE

TEMPORARY RESTRAINING ORDER FOR PROTECTION AGAINST VIOLENCE

Document:

[Petition for Temporary Restraining Order](#) [click for PDF]

[< Previous](#) [Next >](#)

Question:

Ex Parte Order

Please review the Petition filed by Jane Red Feather (Petitioner). John Brown Fox (Respondent) has not been served. Based upon the facts in the Petition, would you issue a temporary restraining order (TRO) ex parte?

Your answer was Yes

Yes is the preferred answer for this virtual training, *Red Feather v. Brown Fox*. In the Petition, the facts show that an emergency or immediate and irreparable injury or harm will occur. Notice to the Respondent is not a requirement when issuing an ex parte order.

Bench tools and analysis points used in determining the answer

- The *Tribal Court Bench Book for Domestic Violence Cases* provides a two part standard for determining whether to grant an ex parte TRO. First, “[i]s there sufficient proof by affidavit or sworn testimony that immediate and irreparable

DVVC: Permanent Restraining Order – Civil Hearing Video

[Home](#) [Civil Proceeding](#) [Criminal Proceeding](#) [Case Files](#) [Flow Chart](#) [Resources](#) [Troubleshooting](#) [Contact](#)



**Domestic Violence
Virtual Courtroom**



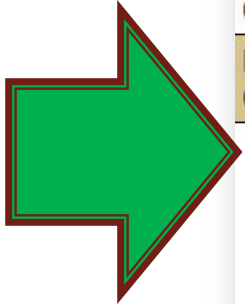
CASE FILE - CIVIL	CASE FILE - CRIMINAL	SKY TRIBAL CODES	CASE FILE - FACT PATTERN	TIMELINE
CIVIL HEARING ON A PERMANENT RESTRAINING ORDER FOR PROTECTION AGAINST DOMESTIC VIOLENCE				
Video: Opening of Proceedings				
< Previous Next >				
				

Civil Proceeding

Temporary Restraining Order

Permanent Restraining Order

Opening of Proceedings [Video]
VAWA - Full Faith and Credit (Enforcement) [Video]
VAWA - Full Faith and Credit (Enforcement) [Question]
Respondent's Testimony [Video]
Jurisdiction and Applicable Law [Question]
Permanent Restraining Order [Question]



DVVC: Criminal Proceeding

DVVC: Criminal Proceeding

[Home](#) [Civil Proceeding](#) [Criminal Proceeding](#) [Case Files](#) [Flow Chart](#) [Resources](#) [Troubleshooting](#) [Contact](#)

 **Domestic Violence
Virtual Courtroom**   

Criminal Proceeding

Arraignment

Trial

Verdict

Welcome to the Criminal Proceeding Online Training.

You need not complete the entire training in one sitting. You can stop at any point and your place will be saved for up to 72 hours. Using the same computer and browser, return to this page and you will be directed to the page where you left off.

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DVVC: Criminal Proceeding

[Home](#) [Civil Proceeding](#) [Criminal Proceeding](#) [Case Files](#) [Flow Chart](#) [Resources](#) [Troubleshooting](#) [Contact](#)



Domestic Violence Virtual Courtroom



Criminal Proceeding

Arraignment

[Arraignment \[Video\]](#)

[ICRA - Right to counsel
\[Question\]](#)

[ICRA - Right to a speedy trial
\[Question\]](#)

Trial

Verdict

CASE FILE -
CIVIL

CASE FILE -
CRIMINAL

SKY TRIBAL
CODES

CASE FILE -
FACT PATTERN

TIMELINE

CRIMINAL HEARING FOR VIOLATION OF A PERMANENT RESTRAINING ORDER AGAINST DOMESTIC VIOLENCE

Question:

ICRA - Right to counsel

[< Previous](#) [Next >](#)

The Sky Tribe has not opted to implement the Tribal Law and Order Act of 2010.

Based upon the facts in the case, does the John Brown Fox (Defendant) have a right to an attorney or lay advocate paid for by the Sky Tribe?

DVVC: Criminal Proceeding – Answer Page

[Home](#) [Civil Proceeding](#) [Criminal Proceeding](#) [Case Files](#) [Flow Chart](#) [Resources](#) [Troubleshooting](#) [Contact](#)



Domestic Violence Virtual Courtroom



Criminal Proceeding

Arraignment

[Arraignment \[Video\]](#)

[ICRA - Right to counsel
\[Question\]](#)

[ICRA - Right to a speedy trial
\[Question\]](#)

Trial

Verdict

CASE FILE -
CIVIL

CASE FILE -
CRIMINAL

SKY TRIBAL
CODES

CASE FILE -
FACT PATTERN

TIMELINE

CRIMINAL HEARING FOR VIOLATION OF A PERMANENT RESTRAINING ORDER AGAINST DOMESTIC VIOLENCE

Question:
ICRA - Right to counsel

[Previous](#) [Next](#)

The Sky Tribe has not opted to implement the Tribal Law and Order Act of 2010.

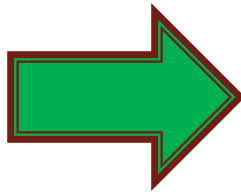
Based upon the facts in the case, does the John Brown Fox (Defendant) have a right to an attorney or lay advocate paid for by the Sky Tribe?

Your answer was No

No is the preferred answer for this virtual training, *Tribe v. Brown Fox*. Under the facts of this case, the Defendant does not have a right to be represented by an attorney or a lay advocate unless the Defendant pays for the service himself. Under the Indian Civil Rights Act of 1968 (ICRA), 25 U.S.C. §§ 1301-1303, Native Americans

DVVC: Criminal Proceeding (link)

witnesses. In these ways, the advocate can build a defense while the defendant is in custody. Moreover, the qualified advocate has the knowledge of criminal procedures and skill at presenting evidence to a fact finder. This allows the advocate to present the best possible defense and protect innocent defendants against the Tribe's authority." The Hopi Appellate Court determined that the right to counsel is a fundamental right, however it must be paid for at the defendant's expense. Prior to the hearing of this particular case, the Hopi Tribe did not have a Public Defenders Office. Currently, the Hopi Tribe has a Public Defenders Office, which helps indigent defendants in a criminal proceeding. Please take note that many tribes might not have a Public Defenders Office and thus cannot provide indigent defendants with counsel. Also, not every tribe pays for counsel for defendants in criminal proceedings. Please look to your tribe's codes and ordinances to determine if the tribe provides counsel at the tribe's expense or at the defendant's expense.



[What if the Sky Tribe Opted to Implement the Tribal Law and Order Act of 2010 \(TLOA\)?](#)

[< Previous](#) [Next >](#)



DVVC: Criminal Proceeding (link opened)

What if the Sky Tribe Opted to Implement the Tribal Law and Order Act of 2010 (TLOA)?

Tribes are not bound by federal law in the way the states and the federal government are. Federal law applies to tribes when the United States Congress expressly mandates it by using its plenary power. The Indian Civil Rights Act of 1968 (ICRA) as amended by Section 234 of the Tribal Law and Order Act (TLOA) provides for enhanced sentencing authority for a tribe's court if the tribe decides to exercise its option to implement TLOA.

Tribal courts will have the ability "to sentence offenders to a term of imprisonment for greater than 1 year but not to exceed 3 years for any 1

DVVC: Criminal Proceeding – Video

[Home](#) [Civil Proceeding](#) [Criminal Proceeding](#) [Case Files](#) [Flow Chart](#) [Resources](#) [Troubleshooting](#) [Contact](#)



Domestic Violence Virtual Courtroom



Criminal Proceeding

Arraignment

Trial

Prosecutor's Opening statement
[Video]

Admission of Evidence
[Question]

Motion for a Directed Verdict
[Question]

Objection raised on Defendant's
Defense [Question]

Verdict

CASE FILE -
CIVIL

CASE FILE -
CRIMINAL

SKY TRIBAL
CODES

CASE FILE -
FACT PATTERN

TIMELINE

CRIMINAL HEARING FOR VIOLATION OF A PERMANENT RESTRAINING ORDER AGAINST DOMESTIC VIOLENCE

Video:
Prosecutor's Opening Statement

[Previous](#) [Next](#)



DVVC: Exiting and Returning to the Web Course

[Home](#) [Civil Proceeding](#) [Criminal Proceeding](#) [Case Files](#) [Flow Chart](#) [Resources](#) [Troubleshooting](#) [Contact](#)



**Domestic Violence
Virtual Courtroom**



Criminal Proceeding

Arraignment

Trial

Verdict

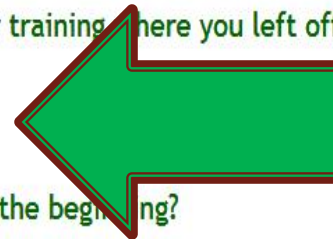
Welcome to the Criminal Proceeding Online Training.

Would you like to continue your training where you left off?

[Continue Training](#)

Or would you like to start from the beginning?

[Start Over](#)





Questions

Thank you

www.ailc-inc.org